

RESOLUTION 2000 - 131

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS ADOPTING REVISED
BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES**

WHEREAS, the Town of Los Gatos Zoning Ordinance Sections 29.10.3000 through 29.10.3040 establishes a Below Market Price (BMP) Housing program to assist low and moderate income Los Gatos citizens purchase homes at prices below market value; and,

WHEREAS, the Program requires construction of dwellings that persons and families of moderate income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings and rents, if they are rented, will be within the means of persons and families of low and moderate income; and,

WHEREAS, the program helps the Town meet State mandated housing goals; and,

WHEREAS, this resolution revises the Town of Los Gatos Below Market Price Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Los Gatos (1) repeals Resolution 1992-88; and, (2) adopts the Revised Below Market Price Guidelines attached as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the 6th day of November, 2000 by the following vote:

COUNCIL MEMBERS:

AYES: Randy Attaway, Jan Hutchins, Linda Lubeck, Joe Pirzynski.
Mayor Steven Blanton

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:



CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

TOWN'S BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES

I. GENERAL PROVISIONS

A. Every multifamily rental dwelling project at the time of building permit, every residential condominium or planned development residential subdivision at the time of subdivision, and every community apartment project and every residential stock cooperative apartment or unit project at the time of subdivision if the transaction involves subdivision, or at the time of sale, if it does not, shall contain one or more BMP dwellings according to the rules listed below with the following exception: Any planned development with an underlying zone of HR, shall only be required to pay an in-lieu fee as established by this resolution.

1. Projects containing five or more but fewer than twenty market rate units must provide a number of BMP units equal to 10 percent of the number of market rate units.
2. Projects which include 20 to 100 market rates units must provide BMP units as determined by the following formula:
$$\text{Number of BMP units} = .225 (\text{total \# of market rate units}) - 2.5$$
3. All projects in excess of 100 market rate units must provide a number of BMP units equal to 20 percent of the market rate units.
4. Whenever the calculations of below market price units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number.

B. Confidentiality

Client information is confidential and not considered public information except for statistical information on the BMP units and general

demographic information on the buyers and renters of BMP housing units. Through BMP program implementation the Town is attempting to provide a supply of low-moderate income housing. The Town does not wish to set the occupants of such housing apart from the general community, attaching a stigma to the occupants. Furthermore, no public interest is served by disclosure of this information. The address of the projects containing BMP units may be provided as well as a range of sales prices.

II. OWNER OCCUPIED UNITS

A. Applicant Eligibility

1. Household Income:

Income limits are set according to household size using the Federal Department of Housing and Urban Development statistics regarding median income.

2. Buyer Qualification:

a. A buyer's qualification is determined by the family's ability to make the monthly payments for the unit. The monthly housing cost shall include the following factors:

- Unit Price
- Current Lending Rates
- Estimated Taxes
- Estimated Insurance Costs
- Homeowner's Fees
- Other expenses as determined necessary by the lender.

b. All persons must qualify for their own mortgage without assistance from the Town. Qualifications must include the

ability to pay taxes, insurance, closing costs and any homeowner association fees in addition to the mortgage.

B. Buyer Selection

1. A point system is used to establish applicant rating and ranking. Applicants will be ranked according to total points and must have at least one point to be eligible for consideration. Points are awarded as follows:

Six points:

- (a) Senior citizens who reside in the Town at the time of application and have lived in the Town for at least the prior two years. A senior citizen is defined as any person 62 years of age or older at time of application or married couples living together when at least one spouse is 62 years of age or older at time of application.
- (b) Senior Citizens who have lived in the Town for at least two years and have moved out of the Town within the last five years prior to the time of application.
- (c) Handicapped persons who reside in the Town at the time of application and who have lived in the Town for at least the prior two years.
- (d) Households required to relocate their residence as a result of Council action or mobile home park closure.
- (e) Salaried Town employees as defined in the Town's Personnel Rules, who have been employed by the Town for a period of no less than 12 months prior to the time of application.

Five points:

Single heads of household with dependent children who reside in the Town at the time of application and have lived in the Town for at least the prior two years.

Four points:

Persons who live in the Town of Los Gatos at time of application and who have lived in the Town at least the prior two years.

Three points:

Persons who work in the Town of Los Gatos at time of application and have worked in the Town for at least the prior two years.

Two points:

- a. Households who have lived in the Town for at least 10 years and have moved out within the last ten years prior to the time of application.
- b. Household size is worth two points per person.

One point:

Households who live or work within Santa Clara County at the time of application.

- 2. A lottery will be used to rank each qualified applicant in the case of a tie.
- 3. An applicant has two opportunities to refuse a unit before being removed from the current applicant pool.
- 4. Applicants who do not qualify for a particular project shall retain their eligibility.
- 5. The highest ranked applicant must obtain pre-approval for a loan within one week after notification of its eligibility to purchase the unit. The applicant must submit documentation of loan approval within four weeks of notification of its eligibility to purchase the

unit.

C. Determination of Initial Selling Price

1. The initial sales price of the unit will be determined by consultation between the Town Manager, or delegate, and the developer within the price ranges calculated as defined herein. The Manager is authorized to approve changes in specifications to lower the price of the BMP units which do not violate any Town code or ordinance requirements, such as changes in carpeting, lighting fixtures, etc. The initial price will be set by a BMP price agreement, which must be signed by the Town Manager and the developer prior to the Planning Commission review of the project.
2. The initial price of a unit may include direct construction costs and may include a proportionate share of the costs of providing utility services, required on-site improvement, financing and premium points, loan standby fees, landscaping and parking, provided that the price shall not exceed an amount which will allow a range of qualified buyers (as defined above) to purchase a unit.
3. The initial price shall not include cost of land, builder's profit, marketing costs, planning, promotional or advocacy expenses, options preliminary drawings, preparing working drawings and specifications, off-site improvements, public agency fees, bonds, insurance, recreational facilities and engineering and architectural fees related to construction.
4. The range in which the initial selling price shall be set will be determined through completion of the following calculation on a regular basis:

a. Calculation of the Housing Multiplier

i. Determination of Total Housing Cost

Sales Price - 10 percent down payment = mortgage
+ Annual Debt Service
+ Taxes
+ Homeowners Fees
+ Private Mortgage Insurance (PMI)
= Total Housing Cost

ii. Determination of Minimum Household Income

Assume 30 percent of household income to go
towards housing:

Total Housing Cost/.30 = Minimum household
income

iii. Determination of Multiplier

Sales Price/Minimum Household Income= Multiplier

b. Initial Sales Price Ranges

Minimum and maximum sales prices are established by
completing the following formula for a range of family
sizes:

Income (80, 100, and 120 percent of median income as
defined by the Federal Department of Housing and Urban
Development)

(H.U.D.) x multiplier = sales price.

D. Deed Restrictions

Council approved Deed Restrictions are recorded with each Below
Market Price dwelling units.

E. Resale of Units

1. If the owner elects to sell his/her unit, the Town must be notified.

2. When a Below Market Price dwelling unit becomes available for resale, the owner must allow the Town to set the resale price and make the unit available to other program applicants.
3. The Town determines the resale price in accordance with the deed restriction recorded on the property.
4. Town markets the unit and ranks applications, to identify the top qualified applicants.

F. In-Lieu Fees

1. Establishment of Fee:
Projects with five or more but less than ten units may pay a fee in-lieu of building a BMP unit in order to comply with BMP Program requirements. Approval of Hillside Planned Developments with five or more residential building sites shall require the payment of an in-lieu fee. The fee shall be equal to the amount of six percent of the building permit valuation for the project. The total building permit valuation is determined by the chief building official.
2. Fees shall be paid prior to or at time of final occupancy as follows:
 - a. Multi-Family Owner Occupied Developments. At approximately 40% occupancy of entire development as determined during the Planning approval process.
 - b. Multi-Family Renter Occupied Developments. At approximately 75% occupancy of entire development as determined during the Planning approval process.
 - c. Hillside Planned Developments. At time of final occupancy for each unit.
3. In-lieu fees will be deposited into the Town's Affordable Housing Fund. Funds will be used, in part, for administration of the

program. Applications/recommendations for use of remaining funds will be reviewed as received. Possible use of the funds include, but is not limited to, the following:

- landbanking
- writing down the cost of owner occupied units to make them affordable to low/moderate income households
- purchasing rental units for renting to eligible tenants.

III. RENTAL UNITS

A. Administration

The program shall be administered by the Town or its designee.

B. Applicant Eligibility

1. Household Income:

In order to be eligible, applicants must have a household income under 80 percent of the County's median income as defined by the Federal Department of Housing and Urban Development.

2. Ability to Pay Rent

A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility.

C. Tenant Selection

Applications from tenants selected by property owner or manager will be forwarded to Town for verification of income eligibility.

D. Management

1. BMP rental units shall be managed in the same manner as other units in the development.

2. Tenants are eligible to receive conciliation and mediation services provided through the Town's Rental Mediation Program except as they regard rent increases.

E. Unit Rents

Tenants will be limited to persons whose annual income is less than 80 percent of the County's Median Income as defined by the Federal Department of Housing and Urban Development. Priority will be given to those households whose income is less than 50 percent of the median income as defined by H.U.D. Rents will be restricted to 80% of Fair Market Rents as determined by the Santa Clara County Housing Authority.

F. Annual Review

If a tenant's income increases so that it falls between 80 and 100 percent of the County's Median income, then the rent may be increased in accordance with the Town's Rental Dispute Ordinance; and the unit shall still be considered a BMP Rental Unit. However, if a tenant's income exceeds 100 percent of the median, the rent may be increased to the average rent of similar units in the complex; in this latter case, the unit will no longer be a BMP unit and the next available unit must be rented to an eligible household so that the number of subsidized units remains the same.